

Unclassified

English - Or. English

28 November 2025

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS  
COMPETITION COMMITTEE**

**Cancels & replaces the same document of 28 November 2025**

**Working Party No. 3 on Co-operation and Enforcement**

**Co-operative Antitrust in Remedy Design – Note by Kazakhstan**

3 December 2025

This document reproduces a written contribution from Kazakhstan submitted for Item 3 of the 142<sup>nd</sup> meeting of Working Party 3 on 3 December 2025.

More documentation related to this discussion can be found at: [oe.cd/card](https://oe.cd/card).

Ms Despina PACHNOU  
[Despina.Pachnou@oecd.org](mailto:Despina.Pachnou@oecd.org)

**JT03577841**

## *Kazakhstan*

### 1. Cooperation with the parties and third parties

1. Agency for Protection and Development of Competition of the Republic of Kazakhstan (hereinafter — the Agency) actively interacts with the parties in the analysis of economic concentration and in the development of possible remedies (behavioral and structural conditions). Such interaction includes:

2. Giving the parties the opportunity to present their arguments and economic justifications for transactions;

3. Requests for data confirming their stated effects or risks;

4. Holding meetings and working consultations necessary to clarify the facts and analyze the behavior patterns of market participants.

5. The degree of involvement of the parties depends on the complexity of the case and the nature of the identified risks to competition. All statements made by the parties are subject to mandatory verification through data analysis, comparative economic analysis, requests for information from independent sources, as well as comparing facts with behavior in related markets.

6. The Agency conducts consultations with third parties, both through direct inquiries and through public consultation mechanisms.

7. Third parties include competitors, consumers, industry associations, expert organizations, and government agencies, provided that their opinions can be relevant to assessing the impact of the transaction on competition. The level of third-party involvement varies:

- in strategically important or complex cases, the participation is high;
- in less significant cases, it is limited to point requests.

8. In general, the Agency notes that third parties are actively interested and have useful information, especially regarding potential risks of non-discriminatory access, changes in competition conditions, or the likelihood of barriers to entry.

9. Taking into account the opinions of the parties and third parties when making decisions. When developing and selecting legal remedies, the Agency takes into account a wide range of opinions.:

- Statements by the parties about the planned behavior or proposed obligations;
- Opinions of third parties on the adequacy and feasibility of the proposed measures;
- The results of economic analysis and law enforcement practice.

10. The decision is made based on a balanced assessment of all received data. An important principle is to prioritize structural and long-term effective solutions that ensure the functioning of competition regardless of the intentions of the parties.

11. The Agency has experience reviewing initial remedies based on comments and information received from third parties. Such situations arise when third parties:

- Provide data indicating the lack of effectiveness of the proposed behavioral commitments;

- Identify the risks of incomplete achievement of the objectives of legal protection due to the specifics of the industry or technological features;
  - Pay attention to monitoring problems or possible ways to circumvent obligations. In a number of cases, this has led to adjustments to the set of obligations, strengthening structural elements, or clarifying monitoring mechanisms.
12. Other mechanisms for testing legal remedies on the market:
13. In addition to direct consultations, the Agency uses additional mechanisms to test the effectiveness of legal remedies, including:
- Analysis of comparative markets (similar in structure or technology);
  - Expert assessments of specialized industry organizations;
  - Experimental forecast of consequences (static and dynamic scenario analysis);
  - Post-factum assessment of previously applied remedies, which allows taking into account the lessons of law enforcement practice;
  - Feedback during the monitoring of previously established commitments, which makes it possible to identify potential risks at the preliminary stages.
14. These mechanisms improve the quality of forecasting and allow us to assess in advance the realism of the proposed measures.

## 2. Cooperation with sector regulators and other public bodies

### 2.1. The practice of interdepartmental cooperation in the development of legal protection measures

15. The Agency has experience in working closely with government agencies in reviewing cases of antimonopoly violations, as well as in analyzing and approving mergers and acquisitions. In a number of cases, we have engaged relevant ministries, industry regulators, and authorized organizations to:
- Assessment of the potential impact of concentration on industry markets;
  - Determining the strategic importance of participants and infrastructure assets;
  - Development of structural and behavioral legal protection measures aimed at reducing the risks of competition restrictions.

### 2.2. Consultations with industry regulatory authorities

16. When developing legal remedies, the Agency systematically consults with the regulator of the industry that may be affected by the actions of market participants. As a result of consultations, we get access to specialized data and analytics, including:
- Statistics and technical parameters of the market functioning;
  - Required regulatory or technological conditions for the implementation of potential measures;
  - Assessment of risks for the sustainable functioning of infrastructure facilities;

- Information about possible consequences for related markets. This approach makes it possible to form more realistic, feasible and proportionate legal protection measures.

### **2.3. Assessment of the quality and level of involvement of regulatory authorities**

17. The quality of interaction with industry regulators is generally high. They make an important contribution to:

- Analyzing the technical feasibility of measures (for example, separating infrastructure, providing access to third parties, changing business processes);
- Assessment of risks of non-compliance or circumvention of requirements;
- Defining the terms and conditions of implementation.

18. However, the degree of involvement may vary depending on the workload of the authorities and industry specifics. More active involvement of regulators significantly improves the quality of the proposed solutions.

### **2.4. Regulatory feedback and its impact on final measures**

19. The Agency has examples where the conclusions received from government agencies led to significant adjustments to the initial draft of legal remedies. This feedback allows you to:

- Review the evaluation of the effectiveness of individual instruments;
- Identify the risks of incomplete or formal execution;
- Adapt measures to ensure their long-term sustainability;
- Replace overly burdensome requirements with more practical but effective alternatives.

### **2.5. Participation of regulators in monitoring the implementation of legal protection measures**

20. In some cases, the Agency relies on the capabilities of industry regulators and assigns them to perform certain monitoring functions when:

- They have specialized expertise and access to regular reports.;
- Industry-specific oversight mechanisms make it possible to quickly identify violations;
- Interaction with market participants is already part of their functionality. A collaborative approach makes it possible to more effectively monitor the actual fulfillment of requirements and respond to risks in a timely manner.

21. In other cases, the Agency leaves monitoring within its competence, but uses data and analytical materials from regulators.

### **2.6. Conclusion**

22. Interagency cooperation is a key element in the formation of effective legal protection measures.

23. The Agency's experience shows that institutionalized mechanisms for cooperation with industry regulators improve the quality of analysis, make it possible to more accurately predict the consequences of decisions and ensure proper fulfillment of obligations by market participants. The Agency is ready to continue the exchange of experience with the OECD countries and to support the development of the best international practices in the field of competition policy.

### **3. Cooperation with other competition agencies**

24. With globalized markets and increasing cross-border economic activity, ensuring consistency of approaches to remedies is becoming a key factor in the effectiveness of competition policy. In this regard, the Agency for the Protection and Development of Competition of the Republic of Kazakhstan considers it necessary to formulate the following recommendations:

#### **3.1. Expansion of systematic interagency and international dialogue.**

25. It is advisable for States to actively share experiences and approaches to the development and application of legal remedies. Regular consultations and participation in interagency working groups organized by the OECD and international networks of competition authorities help to prevent discrepancies in law enforcement practices and ensure regulatory predictability.

#### **3.2. Development of common guidelines and methodologies.**

26. The formation of unified principles for the assessment and development of legal protection measures, including behavioral and structural conditions, is recommended. Joint methodological recommendations can help increase transparency, reduce transaction costs, and prevent conflicting decisions when considering similar cases in different jurisdictions.

#### **3.3. Strengthening information exchange mechanisms.**

27. Effective coordination of approaches is facilitated by the rapid exchange of information on cases of cross-border importance. Including:

- discussion of preliminary conclusions;
- exchange of analytical materials. Such measures minimize the risk of inconsistent decisions and conflicting requirements for market participants.

#### **3.4. Development of trust-based forms of cooperation.**

28. Kazakhstan supports the development of mechanisms for the confidential exchange of data and practices between competitive authorities, which will allow for a better risk assessment and the development of proportionate intervention measures.

#### **3.5. Consideration of international practice in national law-making.**

29. In the process of developing internal methods and procedures for the application of legal remedies, it is advisable for antimonopoly authorities to take into account the successful experience of foreign jurisdictions. This contributes to the harmonization of regulation and increases the effectiveness of national competition policy. The Agency

emphasizes that consistency of legal protection measures is an essential condition for fair regulation of markets, ensuring sustainable competition and creating predictable business conditions.

30. We express our readiness to continue participating in international discussions and initiatives of the OECD aimed at strengthening cooperation and improving the quality of competition policy around the world.